

WHERE LANGUAGE IS BRACKETED SELECT ONE OF THE OPTIONS AND DELETE THE OTHER OR INSERT THE INFORMATION REQUESTED. PLEASE CONTACT THE PURCHASING DIVISION AND THE OFFICE OF LAW BEFORE THIS FORM IS MODIFIED.

BALTIMORE COUNTY, MARYLAND
[CONTRACT] [CAPITAL IMPROVEMENT CONTRACT]

THIS AGREEMENT made this ____ day of _____, _____, (the "Agreement") is by and between **BALTIMORE COUNTY, MARYLAND**, a body corporate and politic, (hereinafter "County") and **[NAME AND ADDRESS OF CONTRACTOR]** (hereinafter the "Contractor").

WHEREAS, the said Contractor, hereby covenants and agrees to [perform all services] [deliver all goods], in strict and entire conformity with the **Attachment A** entitled, ["Services and/or Scope of Work to be Performed", "Goods To Be Provided"], [and] any [Master Agreement] [Purchase Order] subsequently issued and the **[Request for Bid, Request for Proposal, Request for Quotation] No. _____, as amended, and the Contractor's response and any amendments or revisions thereto [If material business terms are contained in correspondence or emails subsequent to initial bid response, Purchasing should list such correspondence and emails here] (collectively, the "Bid")**.

NOW THEREFORE, in consideration of the mutual promises and covenants, the parties hereto agree that the County shall pay the Contractor an amount as set forth herein for [services and/or scope of work rendered][goods provided] in accordance with this Agreement, the other attachments hereto (ALL ATTACHMENTS MUST BE DESCRIBED HERE AND PROPERLY LABELED) and if applicable, the Bid and the [Master Agreement] [Purchase Order] all of which are hereby incorporated into and made a part of this Agreement. Notwithstanding any other terms or provisions of this Agreement, in the event the County is temporarily or permanently prevented, restricted or delayed in the performance of any or all of the duties and obligations imposed upon or assumed by it hereunder, by act of the United States Congress, the General Assembly of Maryland or the Baltimore County Council, by a court of competent jurisdiction or by administrative delay not due to the fault of the County (and its members and agents), then the County shall not be liable directly or indirectly for any claims caused to or suffered by the Contractor or any other person in connection with or as a result of such prevention, restriction or delay. In addition the parties hereto agree as follows:

1. **Contractor's Duties.** The Contractor shall be an independent contractor and not an employee of the County, and shall be responsible for the reporting and remittance of all state and federal taxes. The Contractor shall [perform the services] [provide the goods] outlined in **Attachment A** hereto. The Contractor's [services and/or scope of work to be performed] [goods will be provided] with due care and in a manner satisfactory to the County and in accordance with all applicable [professional] standards.

2. **Compensation.**

2.1 **In consideration of the [services and/or scope of work to be performed][goods to be provided] by the Contractor, the County shall pay the Contractor [SELECT ONE OF THE FOLLOWING OPTIONS:][the sum of _____ Dollars (\$____)] [an amount equal to 90% of the amount**

invoiced pursuant to Paragraph 2.2 below. Ten percent (10%) of each disbursement shall be retained by the County and disbursed in a lump sum upon [completion of the services and/or scope of work described herein][delivery of the goods described herein] in a manner satisfactory to the County, in its sole discretion] [an hourly rate of \$_____ per hour for an approximate total of ____ hours and shall reimburse the Contractor for eligible expenses incurred by the Contractor in the performance of the Contractor's responsibilities and obligation under this Agreement. The eligible expenses are set forth in Attachment A [and in no event shall eligible expenses exceed \$_____ during the entire term of this Agreement] [in accordance with the unit prices set forth in the Bid] [in accordance with the fee schedule attached hereto as Attachment ____].

2.2 The Contractor shall submit invoices to the County [SELECT ONE OF THE FOLLOWING OPTIONS: [monthly] [quarterly] [insert the time period for submission of invoices]. The Contractor's invoices shall reflect the:

- Contractor's name
- Address
- Federal tax identification number
- Order number and line number(s) that correspond with resulting orders
- [Goods provided][Services and/or scope of work performed] during the preceding billing period

Original invoices shall be submitted to Office of Budget and Finance, Disbursements, 400 Washington Avenue, Room 148, Towson, Maryland 21204. Under no circumstances will interest, shipping and related delivery costs, late fees, penalties, handling charges, restocking fees, transportation fees or freight be paid, unless mutually agreed upon in writing by the parties. [DELETE IF NOT APPLICABLE] Copies of invoices shall be sent to [Agency Name and Address]. Invoices in the proper form and approved by the County shall be paid by the County within thirty (30) days of receipt thereof. The County reserves the right to approve such invoices, in its sole discretion, and to request such detail and additional information as the County, in its discretion deems appropriate.

[DELETE IF NOT APPLICABLE] [Cash Discount Periods will be computed from the date of delivery and acceptance of the goods ordered, or the date of receipt of correct and proper invoices prepared in accordance with terms of Baltimore County's order, whichever date is later.]

2.3 [In no event shall the total compensation paid to the Contractor under this Agreement exceed the sum of Twenty Five Thousand Dollars (\$25,000) unless the County Council approves this Agreement and the term is thereby extended as described in Paragraph 3.1 below.] [In no event shall the compensation paid to the Contractor exceed the sum of _____ Dollars (\$_____) [in any contract year] [during the Initial Term of this Agreement, as defined below] [or during any renewal period] [provided, however, that the County may entertain a request for escalation in any year subsequent to the first year in accordance with [SELECT ONE OF THE FOLLOWING: [Paragraph ____ of the Request for Bid, Request for Proposal,

Request for Quotation] OR [Paragraph ___ of this Agreement]. [In no event shall the total compensation paid to the Contractor under this Agreement exceed the sum of _____ Dollars (\$ _____) during the entire term of this Agreement including renewals thereof.][In no event shall the compensation paid to the Contractor exceed the sum of the County Council approved appropriation during the entire term of this Agreement including renewals thereof.]

3. **Term.**

3.1 This Agreement shall be [retroactively] effective [SELECT ONE OF THE FOLLOWING: [as of the date above written and] [when it has been properly signed by all parties hereto and][when executed by the County and] [from _____, 201_ until _____, 201_, unless the County Council approves this Agreement. In the event the County Council approves this Agreement, the term of this Agreement] shall continue through [Insert Date] [(the “Initial Term”)] [, at which time the County may exercise its option to renew set forth in Paragraph 3.2 below], unless sooner terminated pursuant to this Agreement. [The County shall have the option of extending this Agreement at the end of the Initial Term or any renewal term for an additional [SELECT ONE OF THE FOLLOWING TIME PERIODS: [30] [60] [90] days], on the same terms and conditions, by providing written notice of its intent to extend to the Contractor. In the event the County elects to extend this Agreement, the Contractor shall continue to submit invoices for [services and/or scope of work rendered] [goods provided] in the manner prescribed in Paragraph 2 hereof. Any compensation [or reimbursement] paid during the extension period shall, when added to sums already disbursed hereunder, not exceed the maximum amount set forth in Paragraph 2 of this Agreement. In the event any extension changes the terms and conditions set forth herein, including but not limited to, a change in the compensation, approval of the Baltimore County Council may be required.]

[3.2 The County reserves the right to renew this Agreement for [insert renewal period] on the same terms and conditions set forth herein. [INSERT ANY CHANGES TO THE TERMS, i.e. COMPENSATION, UPON RENEWAL OF AGREEMENT, OTHERWISE, IT MUST BE RENEWED ON THE SAME TERMS AND CONDITIONS] The County will automatically renew this Agreement at the end of the Initial Term and each renewal term (except the last) unless it provides written notice of non-renewal to the Contractor prior to the end of the then current term. Unless set forth in a written amendment, the compensation[, reimbursement] and manner of payment set forth in Paragraph 2 shall remain unchanged, including but not limited to, the maximum amount of compensation [and reimbursement] available hereunder. In the event any renewal changes the terms and conditions set forth herein, the approval of the Baltimore County Council may be required.]

4. **Contractor's Representations and Warranties.** The Contractor hereby represents the following:

4.1 [USE FOR CORPORATIONS, LIMITED OR GENERAL PARTNERSHIPS OR LIMITED LIABILITY COMPANIES; DELETE IF CONTRACTOR IS AN INDIVIDUAL] The Contractor is a [corporation][limited partnership][general partnership][limited liability company], duly formed and validly existing under the laws of the State of [INSERT STATE OF INCORPORATION] and is qualified to

do business and is in good standing in the State of Maryland.

4.2 [USE FOR CORPORATIONS, LIMITED OR GENERAL PARTNERSHIPS OR LIMITED LIABILITY COMPANIES; DELETE IF CONTRACTOR IS AN INDIVIDUAL] The Contractor has the power and authority to consummate the obligations and responsibilities contemplated hereby, and has taken all necessary action to authorize the execution, delivery and performance required under this Agreement.]

4.3 [USE FOR CORPORATIONS, LIMITED OR GENERAL PARTNERSHIPS OR LIMITED LIABILITY COMPANIES; DELETE IF CONTRACTOR OR INDIVIDUAL]The Contractor and the person executing this Agreement for the Contractor each warrant that [he][she] is [duly authorized by the Contractor] [is the person set forth in the Procurement Affidavit with the authority] to execute and seal this Agreement on the Contractor's behalf.

4.4 SELECT ONE OF THE FOLLOWING OPTIONS: A. [The [professional] services and/or scope of work to be provided under this Agreement shall be performed competently and with due care, in accordance with all applicable laws, codes, ordinances, regulations and licensing requirements and free from defects in workmanship and materials, as applicable. The parties understand and agree that this Agreement may be for the provision of a combination of goods and services. In such case, the parties hereby agree that the warranties of merchantability and fitness for a particular purpose and use shall apply to the portion of this Agreement that is pertaining to or for goods. The parties understand and agree that the County shall rely upon all express warranties contained in this Agreement, including but not limited to the Bid, and any sample or model presented by the Contractor and expressly accepted by the County.] OR B. [The goods to be delivered shall comply with the implied warranties of merchantability, fitness for particular purpose and use and warranties of title and against infringement, and all express warranties contained in this Agreement, including but not limited to the Bid.]

4.5 The Contractor has obtained and shall continue to maintain, at its own cost, such licenses and certifications as are necessary to provide the services and/or scope of work and provide the goods, as applicable, required pursuant to this Agreement, and shall present such licenses to the County upon its request for the same.

4.6 The Contractor has delivered to the County such written financial statements, schedules or reports in such form and containing such information and accompanied by such documents as requested or required by the County concerning the financial condition of the Contractor. Such documentation fairly and accurately represents the financial condition of the Contractor as of their date and the results of its operations for the period then ended. There has been no material adverse change in the financial condition of the Contractor or the results of its operations since the date of such financial statements, schedules or reports.

4.7 All representations and warranties made in the Procurement Affidavit[, the Bid response], the Contract Affidavit, attached hereto as **Attachment C** and incorporated herein, and this Agreement remain true and correct in all respects throughout the term of this Agreement.

5. **Termination for Convenience.**

5.1 The County may terminate this Agreement, in whole or in part, without cause, by providing written notice thereof to the Contractor at least thirty (30) days prior to the intended date of termination at the address set forth below, or at such other address as may be later designated by the Contractor in writing. The Contractor acknowledges that the absence of a reciprocal right of termination for convenience does not render this Agreement illusory or unenforceable.

5.2 In the event of termination, without cause, the County shall advise the Contractor in writing of the termination date and of work to be performed during the final days prior to contract termination. The Contractor shall be paid for all reasonable costs incurred by the Contractor up to the date of termination set forth in the written notice of termination. Payment shall be made in accordance with the provisions of Paragraph 2 of this Agreement.

6. **Insurance.** The Contractor's evidence of insurance is attached hereto as **[Attachment [B]]**, as required by the County pursuant to the insurance requirements attached to the Bid, in form and amounts acceptable to the County. The Contractor shall maintain the insurance coverages required by the County while this Agreement is in force, and provide documentation of such insurance in a form satisfactory to the County. Such documentation may, in the discretion of the County, be in the form of binders or declarations from the insurance company. **[INCLUDE IF THERE ARE ATTACHED INSURANCE REQUIREMENTS:** In the event of a conflict between the provisions of the attached insurance requirements set forth in the solicitation and this Agreement, the provisions of this Agreement shall prevail.

7. **Default.** The term "Default" as used in this Agreement shall mean the occurrence or happening, from time to time, of any one or more of the following:

7.1 **Representations and Warranties.** If any representation or warranty, expressed or implied, of the Contractor and pertaining to this Agreement shall prove at any time to be incorrect or misleading in any material respect either on the date when made or throughout the term of this Agreement.

7.2 **Compliance with Covenants and Conditions.** If the Contractor shall fail to comply with the terms of any covenant, condition, agreement or any express or implied warranty contained in this Agreement.

7.3 **Performance of Contractual Obligations.** If the services and/or scope of work hereunder are not performed in good faith and in accordance with the provisions of this Agreement **[FOR CAPITAL IMPROVEMENT CONTRACTS: , including but not limited to, time frames specified or the completion schedule which is described in Attachment A.]****[If the delivery of the goods that are the subject of this Agreement [SELECT ONE: [was not made][is not being made] in good faith and/or in accordance with this Agreement, including but not limited to, the delivery schedule which is attached hereto as Attachment _____].**

7.4 **Conditions Precedent to Any Disbursement.** If the Contractor shall be unable to satisfy any condition precedent to its right to receive a disbursement.

7.5 **Bankruptcy.** If the Contractor becomes insolvent or generally does not pay its debts as

they become due, or if a petition for relief is filed by the Contractor in a bankruptcy court, or if the Contractor applies for, consents to, or acquiesces in the appointment of a trustee, custodian, or receiver for the Contractor or any of its assets and property, or makes a general assignment for the benefit of creditors; or in the absence of such application, consent, or acquiescence, a trustee, custodian, or receiver is appointed for the Contractor or for a substantial part of the assets and property of the Contractor and is not discharged within thirty (30) days; or any bankruptcy, reorganization, debt arrangement, or other proceeding or case under any bankruptcy or insolvency or any dissolution or liquidation proceeding is instituted against the Contractor and is consented to or acquiesced to by the Contractor or remains for sixty (60) days undismissed; or the Contractor takes any action to authorize any of the actions described in this subsection.

8. **Remedies for Default.**

8.1 The County shall have the right upon the happening of any Default, without providing notice to the Contractor:

- a. In addition to other available rights and remedies, to terminate this Agreement immediately, in whole or in part;
- b. To suspend the Contractor's authority to receive any undisbursed funds; and/or
- c. To proceed at any time or from time to time to protect and enforce all rights and remedies available to the County, by suit or any other appropriate proceedings, whether for specific performance of any covenant, term or condition set forth in this Agreement, or for damages or other relief, or proceed to take any action authorized or permitted under this Agreement, including but not limited to, calling upon any security, letter of credit, or bond and any other action authorized or permitted by applicable law; regulation, or equity.

8.2 **Upon termination of this Agreement for default, the County may elect to pay the Contractor for [services and/or scope of work provided] [goods delivered] up to the date of termination, less the amount of damages caused by the default, all as determined by the County in its sole discretion.** If the damages exceed the undisbursed sums available for compensation, the County shall not be obligated to make any further disbursements hereunder, and the Contractor agrees to remit any sums due and owing to the County within thirty (30) days of receipt of an invoice therefor.

9. **Remedies Cumulative and Concurrent.** No remedy herein conferred upon or reserved to the County is intended to be exclusive of any other remedies provided for in this Agreement, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder, or now or hereafter existing at law or in equity or by statute. Every right, power and remedy given to the County shall be concurrent and may be pursued separately, successively or together against the Contractor, and every right, power and remedy given to the County may be exercised from time to time as often as may be deemed expedient by the County.

10. **Confidential Information.** The Contractor shall not disclose any documentation and information of any kind or nature disclosed to the Contractor in the course of its performance of duties hereunder without the express prior written consent of the County.

[USE FOR OIT CONTRACTS ONLY] 10.1 "Confidential Information" means any information, whether

oral or written, visually transmitted, machine readable, or in any other form, and including but not limited to, information relating to research products, software, services, development, inventions, processes, engineering, marketing, techniques, customers, pricing, internal procedures, business plans, marketing plans, financial information, commercial information, business information, personal information, health information, medical information, database information, and technical data of either party hereto. Confidential Information may only be disclosed as permitted pursuant to this Agreement or as required by law. Unless otherwise designated, all information transmitted between the parties shall be presumed to be Confidential Information. Personal Information shall also be presumed to be Confidential Information.

10.2 "Personal Information" means all personally identifiable information referring or relating to a natural person or entity, including but not limited to, name, address, telephone number, social security number, financial records, credit card, billing and payment information, tax ID number, health condition, medication information and medical history information, and all Protected Health information as defined by HIPAA, as amended, and as required by all applicable laws.

10.3 The Contractor may only use the County Confidential Information and Personal Information on the County's behalf solely in connection with this Agreement and provided that such use or disclosure does not violate any ordinance, regulation, law or statute or any other provision of this Agreement. The Contractor shall take all actions necessary to ensure that all its employees, agents, assigns and subcontractors adhere to these restrictions and conditions with regard to the County Confidential Information and Personal Information and that such persons are strictly prohibited from making any use of, publishing, or otherwise disclosing to others, or permitting others to use, any Confidential Information, except as required by law.. The Contractor agrees to store and process the County's data only in the continental United States

10.4 In addition to those requirements set forth and attached hereto as **Attachment** __, Non-Disclosure Agreement, the Contractor shall report, either orally or in writing, to the Director of OIT or designee, and the County Director of Budget and Finance or designee, any use or disclosure of data not authorized by this Agreement or in writing by the County, including any reasonable belief that an unauthorized individual has accessed the data. The Contractor shall make the report to the Director of OIT or designee, and the County Director of Budget and Finance or designee, immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after the Contractor reasonably believes there has been such unauthorized use or disclosure. The Contractor's report shall identify (i) the nature of the unauthorized use of data in the disclosure, (ii) the data used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what the Contractor has done or shall do, and in what timeframe, to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. The Contractor shall provide such other information, including a written report, as reasonably requested by the County or as required by law.

10.5 The Contractor shall not disclose any documentation and information of any kind or nature disclosed to the Contractor (also known as "data" when in electronic form) in the course of its performance of duties hereunder without the express prior written consent of the County, except as required by law. In the event

an unauthorized disclosure of data involves personal health information or the personal or financial information of any party other than the Contractor, the Contractor will be responsible for purchasing and providing potentially impacted parties with credit monitoring and/or identity restoration services at no cost within thirty (30) days of the breach and notifying the potentially impacted parties in writing, with prior written notice to the County.

10.6 The Contractor shall immediately notify the County prior to any disclosure pursuant to a received court order or subpoena, and shall not oppose any actions taken by the County in a court of law to prevent disclosure. The Contractor will not be responsible for providing such services if disclosure is caused by the gross negligence or willful malice of the County. The Contractor shall execute **Attachment** __, Non-Disclosure Agreement upon the County's request and act in conformity therewith. Upon the County's request, the Contractor shall sign any protective order or other confidentiality agreements required by the County governing the Contractor's use of documents related to a litigation or other confidential matter being handled by the Contractor.

10.7 Each party shall carefully restrict access to the other's Confidential Information to those employees, officers, directors, agents, assigns and subcontractors who clearly need such access in order to perform their obligations under this Agreement. Each party warrants and represents that it will advise each of the persons to whom it provides access to any of the other's Confidential Information, in conformance with the terms of this Agreement, that such persons are strictly prohibited from making any use of, publishing, or otherwise disclosing to others, or permitting others to use, any Confidential Information, except as required by law. The County may, in its reasonable discretion, require such persons to execute a Non-Disclosure Agreement in the form attached hereto as **Attachment** __ and incorporated herein to be retained by the County in its files.

10.8 Each party may disclose to the other party, and its employees, assigns, subcontractors, or agents, Confidential Information of such party. Except as otherwise provided in this Section or as required by law, each recipient of Confidential Information shall hold the Confidential Information in confidence and shall not, directly or indirectly, copy, reproduce, distribute, manufacture, duplicate, reveal, report, publish, disclose, cause to be disclosed or otherwise transfer such Confidential Information to any third party or utilize such Confidential Information for any purpose whatsoever other than as expressly contemplated by this Agreement. This obligation shall continue throughout the terms of this Agreement and survives the expiration or termination of this Agreement. Each party understands and acknowledges that any disclosure or misappropriation of any of the Confidential Information in violation of this Agreement may cause the disclosing party irreparable harm, the amount of which may be difficult to ascertain and, therefore, agrees that the disclosing party shall have the right to apply to a court of competent jurisdiction for an order restraining any such further disclosure or misappropriation and for such other relief as the disclosing party shall deem appropriate. Such right of the disclosing party is to be in addition to the remedies otherwise available to the disclosing party at law or in equity.

a. Notwithstanding the above, upon prior written notice to the party disclosing the Confidential Information, the recipient of the Confidential Information may only disclose such information if, upon advice of counsel, such disclosure is required by a subpoena, court order, law, statute, or regulation, or other

compulsion of law (in which case the parties shall cooperate to the extent reasonable to preserve the Confidential Information from public disclosure beyond what is absolutely necessary).

10.9 These confidentiality obligations shall not apply to proprietary information or intellectual property if and to the extent it is established that the information communicated: (a) is already known to recipient, without obligation to keep such information confidential, at the time of recipient's receipt of the proprietary information or intellectual property, as evidenced by documents in possession of the recipient prepared or received prior to such communication; (b) was received by recipient in good faith from an unrelated third party lawfully in possession thereof and having no obligation to keep such information confidential; (c) was publicly known at the time of recipient's receipt thereof or have become publicly known other than by a breach of this Agreement; (d) prior to recipient's disclosure of such information, such disclosure was consented to in writing by the disclosing party but only insofar as the consent of disclosure allows; or (e) is independently developed by the recipient without the use of the Confidential Indemnification provided recipient can clearly demonstrate such independent development.

10.10 The Contractor will maintain and enforce safety and physical security procedures with respect to its access and maintenance of the County's Information that are (a) at least equal to industry standards for such types of locations and (b) which provide reasonably appropriate technical and organizational safeguards against accidental or unlawful destruction, loss, alteration, or unauthorized disclosure or access of the County's Information and all other data owned by the County and accessible by the Contractor under this Agreement.

10.11 The Contractor shall maintain and implement disaster recovery and avoiding procedures to ensure that services are not interrupted during any disaster and the County's Information is not lost or destroyed during any disaster. For any of the County's Information managed, maintained, stored, or hosted by or on behalf of the Contractor, the Contractor shall (a) execute nightly database or systems backups to a backup server; (b) perform incremental database backups for databases, and (c) replicate the County's database(s) to an off-site or secondary location (other than the primary data center).

11. **Conflict of Interest.** The Contractor represents and warrants that there exists no actual or potential conflict of interest between its performance under this Agreement and its engagement or involvement in any other personal or professional activities. In the event such conflict or potential conflict arises during the term of this Agreement, or any extension or renewal thereof, the Contractor shall immediately advise the County in writing thereof.

12. **Assignment.**

12.1 Neither the County nor the Contractor shall assign or transfer its interest or obligations under this Agreement to any third party, without the written consent of the other. The Contractor further agrees to provide a minimum of ninety (90) days' written notice to the County prior to entering into any bankruptcy, merger or consolidation where the surviving entity will be unwilling or unable to accept the Contractor's obligations hereunder, to enable the County to procure the goods or services elsewhere. In the event the cost of procuring such alternate goods or services increases the cost to the County, and/or delays delivery time of any product, in addition to any other remedies available to the County, the Contractor shall pay to the County,

as damages, any additional costs incurred.

12.2 Nothing herein shall be construed to create any personal or individual liability upon any employee, officer or elected official of the County, nor shall this Agreement be construed to create any rights hereunder in any person or entity other than the parties of this Agreement.

13. **Delegation of Duties.** The Contractor shall not delegate the Contractor's duties under this Agreement without the prior written consent of the County.

14. **Indemnification.**

14.1 The Contractor shall defend, indemnify and hold harmless the County, its employees, agents and officials from any and all liabilities, claims, suits, or demands including attorneys' fees which may be incurred or made against the County, its employees, agents or officials resulting from any act or omission committed in the performance of the duties imposed by and performed under the terms of this Agreement by the Contractor or anyone under agreement with the Contractor to perform duties under this Agreement. The Contractor shall not be responsible for acts of gross negligence or willful misconduct committed by the County.

14.2 The Contractor shall also defend, indemnify and hold harmless the County, its employees, agents and officials from any and all liabilities, claims, suits, or demands including attorneys' fees which may be made against the County, its employees, agents or officials by any third party arising from the alleged violation of any third party's trade secrets, proprietary information, trademark, copyright, patent rights, or intellectual property rights in connection with the Contractor's work under this Agreement.

14.3 Unless notified by the County in writing to the contrary, Contractor shall provide defense for County, its employees, agents and officials in accordance with this Article 14. Contractor shall allow County to participate in said defense of County, its employees, agents and officials, to the extent and as may be required by the County and the Contractor shall cooperate with County in all aspects in connection therewith.

15. **Integration and Modification.** This Agreement sets forth the entire agreement between the parties relative to the subject matter hereof. No representation, promise or condition, whether oral or written, not incorporated herein shall be binding upon either party to this Agreement. No waiver, modification or amendment of the terms of this Agreement shall be effective unless made in writing and signed by an authorized representative(s) of the party sought to be bound thereby.

16. **Fee Prohibition.** The Contractor warrants and represents that it has not employed or engaged any person or entity to solicit or secure this Agreement, and that it has not paid, or agreed to pay any person or entity a fee or any other consideration contingent on the making of this Agreement. If any suit, claim, or demand shall arise concerning such a fee, the Contractor agrees to indemnify and hold harmless the County, from all such claims, suits or demands.

17. **No Partnership.** Nothing contained in this Agreement shall be construed in any manner to create any relationship between the Contractor and the County other than expressly specified herein and the Contractor and the County shall not be considered partners or co-venturers for any purpose on account of this Agreement.

18. **Governing Law and Jurisdiction.** This Agreement shall be governed and construed in

accordance with the laws of the State of Maryland and Baltimore County, Maryland. The parties consent to the jurisdiction of and agree that venue shall be proper in the District or Circuit Court of Baltimore County, Maryland.

19. **Recitals and Conflicting Terms.**

[19.1] The Recitals are hereby incorporated into this Agreement. The Contractor acknowledges that any Purchase Order issued on or after the effective date of this Agreement is also hereby incorporated and made a part of this Agreement, provided, however that any preprinted terms and conditions of any purchase order or other ordering document issued by the County in connection with this Agreement that are in addition to or inconsistent with the terms and conditions of the Agreement, shall not be binding on the Contractor and shall not be deemed to modify this Agreement.

[19.2] In the event of a conflict between the Bid (including standard specifications) and this Agreement, the provisions of this Agreement (without the conflicting terms in the Bid) shall prevail.

[19.3] If a conflict arises between the provisions of this Agreement and any Purchase Order, the provisions of this Agreement shall prevail.

[USE FOR CAPITAL IMPROVEMENT ONLY] [19.4 In the event of a conflict between this Agreement, the Baltimore County Department of Public Works "Standard Specifications For Construction And Materials," the Baltimore County Department of Public Works February 2000 "Standard Details For Construction," and the supplemental specifications known as Addendum 3 and General Conditions Building Projects, as applicable and as further described in Section [] of this Agreement, the parties hereby agree that this Agreement shall control.]

[USE FOR CAPITAL IMPROVEMENT ONLY] [19.5 In the event of a conflict between the Baltimore County Department of Public Works February 2000 "Standard Specifications For Construction And Materials" and the Baltimore County Department of Public Works "Standard Details For Construction" and the supplemental specifications known as Addendum 3 and General Conditions Building Projects, as applicable and as further described in Section [] [33] of this Agreement, then the parties agree the supplemental specifications known as Addendum 3 and General Conditions Building Projects, as applicable, shall control.]

20. **Severability.** If any of the provisions in this Agreement are declared by a court or other lawful authority to be unenforceable or invalid for any reason, the remaining provisions hereof shall not be affected thereby and shall remain enforceable to the full extent permitted by law.

21. **Time is of the Essence.** TIME IS OF THE ESSENCE WITH RESPECT TO PERFORMANCE OF THE TERMS AND CONDITIONS OF THIS AGREEMENT.

22. **Funding.** The failure of the County to appropriate sufficient funds in any future fiscal year to provide funds for this Agreement shall entitle the County to terminate this Agreement without prior notice to the Contractor.

23. **Counterparts.** This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument.

24. **Ownership of Work; County Information.**

24.1 All finished or unfinished work or work product, reports, or goods that are the subject of this Agreement [DELETE IF NOT APPLICABLE: including any licenses or consents acquired by the Contractor for performance hereunder,] shall be and shall remain the property of the County.

24.2 The County is, will be, and shall remain at all times the owner of all of the County's information. The Contractor expressly acknowledges that the County has all right, title, or other ownership interest in the County's information and the Contractor shall not possess or assert any lien or other right against the County's information.

24.3 Ownership of any graphics, text, data or other information or content materials and all records and databases supplied or furnished by the County hereunder for incorporation into or delivery through the application(s) described herein shall remain the property of the County, and Contractor shall cease use of, and return to the County all such material upon termination of this Agreement.

25. **Discrimination Prohibited.**

25.1 In the execution of the obligations and responsibilities hereunder, including, but not limited to, hiring or employment made possible by or relating to this Agreement, the Contractor shall not:

a. Fail or refuse to hire, or discharge, any individual, or otherwise to discriminate against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, age, national origin, political affiliation, marital status, sexual orientation, gender identity or expression, genetic information, status as a veteran, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or because of the individual's refusal to submit to a genetic test or make available the results of a genetic test;

b. Limit, segregate, or classify its employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity or expression, genetic information, status as a veteran, political affiliation or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or because of the individual's refusal to submit to a genetic test or make available the results of a genetic test; or

c. Request or require genetic tests or genetic information as a condition for hiring or determining benefits.

25.2 All solicitations or advertisements for employees shall state that the Contractor is an equal opportunity employer.

26. **Reports / Information/Inspections / and Audits.**

[DELETE IF NOT APPLICABLE: 26.1 **The Contractor shall furnish the County with the following reports or information [insert reporting requirements]:** Reports produced for the County under this Agreement should be on recycled and recyclable paper printed on both sides.

[26.2] At any time during normal business hours and as often as the County may deem necessary, the Contractor shall make available to and permit inspection and copying by the County, its

employees or agents, of all records, information and documentation of the Contractor related to the subject matter of this Agreement, including, but not limited to, all contracts, invoices, payroll, and financial audits. Contractor shall retain all records, information, and documentation of the Contractor related to this Agreement, including but not limited to, all contracts, invoices, payroll, and financial audits for at least three (3) years after the termination of this Agreement.

[DELETE IF NOT APPLICABLE: 26.3 The County may request the Contractor, at the expense of the Contractor, to have performed an independent audit of the Contractor's financial information including, but not limited to, balance sheets, statement of revenue and expenses, and receipts and disbursements. The independent auditor selected shall be subject to the approval of the County.]

[DELETE IF NOT APPLICABLE: 26.4 All prime Contractors and MBE/WBE subcontractors are required to report monthly to the County through an online system called PRISM at www.baltimorecountymd.gov/go/mwbe under MWBE directory/Vendor Compliance. If the Contractor cannot submit this report on time, the Contractor must notify the County MBE/WBE office and request additional time to submit the report. Failure of the Contractor to report in a timely manner may result in a finding of noncompliance. The County, in its sole discretion, may require additional reports regarding MBE/WBE. Questions regarding the use of this system can be directed to the MBE/WBE Officer/Liaison at 410-887-3119 or 410-887-3407.

27. **Regional Cooperative Purchasing.** The Contractors must submit semi-annual statistical reports via email in an Excel format prescribed by the County for the periods of January to June and July to December each year. Reports are due, without notice, to the County on August 1 and February 1, respectively, following the end of each six- month period. Failure of the County to remind the Contractor that the reports are due does not relieve the Contractor of the responsibility of submitting the reports on time. The semi-annual reports must show the dollars spent in connection with this Agreement by the participating entities and may show other reporting categories mutually agreed upon by the County and Contractor. Failure to submit the reports on time constitute unsatisfactory performance under the terms of the Agreement.

28. **Notice.** Any notice required to be delivered shall be deemed to have been received when the notice has been sent by certified mail, return receipt, overnight carrier, or hand delivered with signed receipt to the following address and individual or at such other address and/or such other individual as a party may identify in writing to the other party:

**FOR THE COUNTY:
[Contact Name and/or Job Title
address
telephone number
email address
fax number]**

**[IF DEEMED NECESSARY ADDITIONAL CONTACT FOR THE COUNTY:
Contact Name, and/or Job Title
address
telephone number]**

email address
fax number DELETE IF NOT APPLICABLE]

[IF DEEMED NECESSARY] **BALTIMORE COUNTY OFFICE OF LAW:**
County Attorney
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4420
(410) 296-0931 (fax)DELETE IF NOT APPLICABLE]

FOR THE CONTRACTOR:
[Contact Name and Job Title
address
telephone number
email address
fax number

[IF DEEMED NECESSARY] **[ADDITIONAL CONTACT] [DELETE IF NOT APPLICABLE]**

FOR THE CONTRACTOR:
Contact Name and Job Title
address
telephone number
email address
fax number]

[DELETE IF NOT APPLICABLE: 29. **Recycled and Recyclable Products.** Any goods delivered under this Agreement that require packaging must be packed in recycled and recyclable materials.]

[DELETE IF NOT APPLICABLE: 30. **Compliance With Federal and State Confidentiality Law.**

30.1 The Contractor acknowledges its duty to become familiar with and comply, to the extent applicable, with all laws and regulations including, but not limited to, the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. §§ 1320 *et seq.*, as the same may be amended from time to time and implementing regulations including, but not limited to, 45 CFR Parts 160 and 164, as the same may be amended from time to time, the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§4-301 *et seq.*, as the same may be amended from time to time, and the Health Information Technology for Economic and Clinical Health (HITECH) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. No. 111-5 (February 17, 2009), as amended. This obligation includes but is not limited to:

- a. As necessary, adhering to the privacy and security requirements for protected health information and medical records under federal HIPAA, HITECH, and State MCMRA and making the transmission of all electronic information compatible with the federal requirements; and
- b. Providing good management practices regarding all health information and medical records.

30.2 The Contractor must execute a business associate agreement, when and if required by federal or state laws and/or regulations, as the same may be amended from time to time.

30.3 Protected Health Information as defined in the HIPAA regulations at 45 CFR 160.103 and

164.501, as, the same may be amended from time to time, means information transmitted as defined in the regulations, that is individually identifiable; that is created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and that is related to the past, present, or future physical or mental health or condition of an individual, to the provision of healthcare to an individual, or to the past, present, or future payment for the provision of healthcare to an individual. The definition excludes certain education records as well as employment records held by a covered entity in its role as employer.

31. **Political Contribution Disclosure Affirmation.** The Contractor affirms that it is aware of, and will comply with, the provisions of Sections 14-101 through 14-108 of the Election Law Article of the Annotated Code of Maryland, that a person making or having a single contract with a single governmental entity involving cumulative consideration of at least \$200,000 shall file an initial statement, and semi-annual statements as applicable, with the State Board of Election disclosing applicable contributions of \$500 or more, or the lack thereof.

32. **No Waiver, Etc.** No failure or delay by the County to insist upon the strict performance of any term, condition or covenant of this Agreement, or to exercise any right, power, or remedy consequent upon a breach thereof, shall constitute a waiver of any such term, condition, or covenant or of any such breach, or preclude the County from exercising any such right, power, or remedy at any later time or times.

33. **Survival.** Those sections in this Agreement which by their nature are intended to survive, including but not limited to Sections 4 (Contractor's Representations and Warranties), 10 (Confidential Information), 14 (Indemnification), 26 (Reports/Information/and Audits), [FOR OIT: 43 (Data Handling in Event of Termination)] shall survive the termination of this Agreement.

[USE FOR CAPITAL IMPROVEMENT ONLY] 34. **Applicable Laws, Codes, Ordinances, and Regulations.**

34.1 The services and/or scope of work under this Agreement shall be performed competently and with due care, and in accordance with all applicable laws, codes, ordinances, regulations, and executive orders and in strict compliance with (i) the Bid, (ii) the Baltimore County Department of Public Works February 2000 "Standard Specifications for Construction and Materials" and "Standard Details for Construction" (iii) and any and all revisions thereto as of the date of advertisement, including but not limited to the supplemental specification known as Addendum 3 and General Conditions Building Projects, as applicable, and all of which (i-iii) are made a part hereof and incorporated herein (collectively, the "Specifications"). The Contractor understands and agrees it is the Contractor's responsibility and obligation to obtain a copy of the Specifications and agrees the Specifications are incorporated into this Agreement. Copies of the revisions known as Addendum 3 and General Conditions Building Projects are on file and available at the Division of Construction Contracts Administration, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland, and are on the County's website at

<http://www.baltimorecountymd.gov/Agencies/publicworks/standardsandspecs/specsanddetails.html>.

34.2 For any and all capital improvement contracts and/or projects administered and overseen

by the County Office of Budget and Finance, the parties hereby agree that the "Engineer" as defined in the Baltimore County Department of Public Works February 2000 "Standard Specifications for Construction and Materials" shall include the Property Management Division of the County Office of Budget and Finance and its staff, employees and agents.

[USE FOR CAPITAL IMPROVEMENT ONLY] 35. Liquidated Damages.

[There are no liquidated damages for this Agreement and THE CONTRACTOR UNDERSTANDS AND AGREES THE CONTRACTOR IS RESPONSIBLE FOR ALL ACTUAL DAMAGES INCURRED AND/OR ASSERTED AGAINST THE COUNTY IN CONNECTION WITH THIS AGREEMENT AND THE SCOPE OF WORK PERFORMED OR TO BE PERFORMED BY THE CONTRACTOR.]

[Time is an essential element of this Agreement and it is important that the work be vigorously prosecuted until completion. For each [calendar] [working] day that any work shall remain uncompleted beyond the [insert time period] [calendar days] [working days] specified in the bid hereof, the Contractor shall be liable for liquidated damages in the amount of _____ Dollars and __ Cents (\$_____.__) per [calendar day] [working day]. These liquidated damages are only a reasonable estimate of the County's damages due to loss of public use during any delay period.

It is very difficult, if not impossible, to accurately measure the damages to the County due to the public's loss of use of the project during the delay period.

IN ADDITION TO THE DAMAGES DUE TO THE PUBLIC'S LOSS OF USE OF THE PROJECT DURING THE DELAY PERIOD, THE COUNTY IS LIKELY TO INCUR ADDITIONAL COSTS DURING THE DELAY PERIOD, INCLUDING BUT NOT LIMITED TO, CONSULTANTS, UTILITIES, COUNTY EMPLOYEES' TIME, COUNTY VEHICLES AND SUCH OTHER COSTS THAT THE COUNTY WILL INCUR TO CONTINUE ADMINISTRATION OF THE CONSTRUCTION AND THE AGREEMENT DURING THE DELAY PERIOD, ALL OF WHICH WILL BE MONITORED BY THE COUNTY, AND THE CONTRACTOR SHALL PAY THE COUNTY SUCH ACTUAL DAMAGES INCURRED DURING THE DELAY PERIOD. THE CONTRACTOR'S OBLIGATION TO PAY THE COUNTY FOR SUCH CONSTRUCTION AND AGREEMENT ADMINISTRATION COSTS DURING THE DELAY PERIOD SHALL BE IN ADDITION TO THE CONTRACTOR'S OBLIGATION TO PAY THE LIQUIDATED DAMAGES IN THE AMOUNT OF _____ DOLLARS AND ____ CENTS (\$_____.__) PER [CALENDAR DAY] [WORKING DAY] DUE TO THE PUBLIC'S LOSS OF USE OF THE PROJECT.

THE COUNTY SHALL HAVE THE RIGHT TO DEDUCT THE LIQUIDATED DAMAGES DUE TO THE PUBLIC'S LOSS OF USE OF THE PROJECT, AND THE COUNTY'S ACTUAL COSTS TO CONTINUE ADMINISTRATION OF THE CONSTRUCTION AND THE AGREEMENT, FROM ANY MONIES DUE OR ANY MONIES THAT MAY BECOME DUE TO THE CONTRACTOR.]

[USE FOR CAPITAL IMPROVEMENT ONLY] 36. The Contractor shall review government issued identification and badge all employees of the Contractor and its subcontractors. The Contractor shall also review all federal forms, including but not limited to I-9's, for compliance as well as copies of all employment eligibility and identity documentation maintained to the extent required by law.

[USE FOR CAPITAL IMPROVEMENT ONLY] 37. The payment and performance bonds, given by the

Contractor in a sum equal to the total contract price of the services and/or scope of work rendered in compliance with the terms and provisions of this Agreement, are hereby attached and incorporated herein.

[USE FOR OIT CONTRACTS ONLY] 38. Access to Data. Notwithstanding anything to the contrary herein or in the Attachments hereto, the County retains the right to use the applicable Deliverables and services provided hereunder to access and retrieve County content hosted by the Contractor, at its sole discretion. If an emergency situation might require immediate access to the Data in the Contractor's system, the Contractor shall use its best efforts to immediately provide such access to the County. Should any of the Data become the subject of a subpoena or other legal or governmental requirements for access, the Contractor is responsible for notifying the County as soon as it receives any such request prior to providing access to any of the County's data, and will cooperate with the County's efforts to manage the release of such data.

[USE FOR OIT CONTRACTS ONLY] 39. Access to County System.

39.1 Only on a pre-approved as-needed basis shall the County provide the Contractor with access to the County system or with administrator-level privileges to the County's application server for the Contractor's provision of Services hereunder. Such access is only for the Contractor's provision of Deliverables hereunder.

39.2 The Contractor understands and agrees that the Contractor and its employees, agents, assigns and subcontractors may be allowed access to County Property, the County network, and/or the system in connection with the performance of this Agreement. The Contractor shall, and shall cause each and every of its employees, agents, assigns, and subcontractors to, only access and utilize County Property, the County network, and system only in connection with and for the performance of the Contractor's duties and obligations under this Agreement. In the event the County allows the Contractor access, including but not limited to remote access, to County Property, the County network, or system in connection with the Contractor's performance of this Agreement, the Contractor, its employees, agents, assigns, and subcontractors shall adhere to and abide by all County security requirements and procedures (including but not limited to the Citrix Secure Security Policy, attached hereto as **Attachment** ___ and any other security requirements and procedures described upon the County's website, or otherwise) and shall not allow any unauthorized access to, unauthorized use of, intrusion upon, disabling of, erasure of, or interference with any County Property, the County network, or system. The Contractor understands and agrees that the County only allows remote access to support system implementation or system support when required through ports 80 and 443.

[USE FOR OIT CONTRACTS ONLY] 40. Data Storage. The Contractor agrees to store and process County Data only in the continental United States. The Contractor shall store all of the County's Data in a physically and logically secure environment that protects it from unauthorized access, loss, alternation, disclosure, modification, theft, misuse, and destruction. The Contractor shall maintain an adequate level of data security controls to ensure compliance with the requirements of this Agreement or any protective order, or confidentiality agreement signed by Contractor.

[USE FOR OIT CONTRACTS ONLY] 41. Criminal Background Checks. Criminal background checks must be successfully completed for any and all Contractor or subcontractor personnel that have the

ability to view or access any County data or facilities. The Contractor must certify the individuals have passed a criminal background check. Failure to provide such background check may be deemed to be a default under the contract.

[USE FOR OIT CONTRACTS ONLY] 42. SOC 2 Audit. The Contractor shall have an annual audit performed, by an independent audit firm of the Contractor's choosing, of the Contractor and any relevant subcontractor's handling of Confidential (Controlled) Information and shall address all areas relating to Information Technology security and operational processes in accordance with NIST 800-53, CJIS, HIPPA, or other compliance requirements as determined by the information processed with a minimum of compliance to NIST 800-53 at the moderate level. These services provided by the Contractor and any relevant subcontractor that shall be covered by the audit will collectively be referred to as the "Information Functions and/or Processes." Such audits shall be performed in accordance with audit guidance: *Reporting on Controls at a Service Organization Relevant to Security, Availability, Processing Integrity, Confidentiality, or Privacy (SOC 2)* as published by the American Institute of Certified Public Accountants (AICPA) and as updated from time to time, or according to the most current audit guidance promulgated by the AICPA or similarly-recognized professional organization, as agreed to by OIT, to assess the security of outsourced client functions or data (collectively, the "Guidance") as follows:

42.1 The type of audit to be performed in accordance with the Guidance is a SOC 2 Type 2 Audit (referred to as the "SOC 2 Audit" or "SOC 2 Report"). The initial SOC 2 Audit shall be scheduled and completed within a timeframe to be specified by the Director of OIT or if previously completed will be provided for review prior to contract award for review. All subsequent SOC 2 Audits that are arranged after this initial audit shall be performed on annual basis and submitted to the Director of OIT upon completion for the preceding calendar year.

42.2 The SOC 2 Audit shall report on the Contractor and any relevant subcontractor's system(s) and the suitability of the design and operating effectiveness of controls of the Information Functions and/or Processes to meet the requirements of the Agreement.

42.3 The audit scope of each year's SOC 2 Report may need to be adjusted to accommodate any changes to the Contractor's and any relevant subcontractor's environment since the previous SOC 2 Report. Such changes may include but are not limited to the addition of Information Functions and/or Processes through modifications to the Agreement, or due to changes in information technology or operational infrastructure implemented by the Contractor and/or subcontractor. The Contractor and any relevant subcontractor shall ensure that the audit scope of each year's SOC 2 Report engagement shall accommodate these changes by including in the SOC 2 Report all appropriate controls related to the current environment supporting the Information Functions and/or Processes, including those controls required by the Agreement.

42.4 The scope of the SOC 2 Report shall include work performed by any subcontractors that provide essential support to the Contractor for the Information Functions and/or Processes for the services provided to the County under the Agreement. The Contractor shall ensure the audit includes all subcontractors operating in performance of the Agreement.

42.5. All SOC 2 Audits, including those of the Contractor and any relevant subcontractor, shall be performed at no additional expense to the County.

42.6. The Contractor and all relevant subcontractors shall promptly provide a complete copy of the final SOC 2 Report(s) to the Director of OIT upon completion of each SOC 2 Audit engagement.

42.7. The Contractor shall provide to the Director of OIT, within 30 calendar days of the issuance of each SOC 2 Report, a documented corrective action plan which addresses each audit finding or exception contained in a SOC 2 Report. The corrective action plan shall identify in detail the remedial action to be taken by the Contractor and/or subcontractor(s) along with the date(s) when each remedial action is to be implemented.

42.8. If the Contractor, including any relevant subcontractor, currently has an annual information security assessment performed that includes the operations, systems, and repositories of the Information Functions and/or Processes being provided to the County under the Agreement, and if that assessment generally conforms to the content and objective stipulated may be acceptable in lieu of the SOC 2 Report(s).

42.9. If the Contractor and any relevant subcontractor fails during the Term to obtain an annual SOC 2 Report, the County shall have the right to retain an independent audit firm to perform an audit engagement of a SOC 2 Report of the Information Functions and/or Processes utilized or provided by the Contractor and any relevant subcontractor under the Agreement. The Contractor and any relevant subcontractor agrees to allow the independent audit firm to access its facility/ies for purposes of conducting this audit engagement(s), and will provide the necessary support and cooperation to the independent audit firm that is required to perform the audit engagement of the SOC 2 Report. The County will invoice the Contractor for the expense of the SOC 2 Report(s), or deduct the cost from future payments to the Contractor.

42.10 In addition to the SOC 2 Report(s) the Contractor, when providing an externally facing website as part of the service provided or part of the service provided, and any relevant subcontractor(s), shall conduct regular external vulnerability testing. External vulnerability testing is an assessment designed to examine the Contractor's and subcontractor's security profile from the Internet without benefit of access to internal systems and networks behind the external security perimeter. The Contractor and any relevant subcontractor(s) shall evaluate all identified vulnerabilities on Internet-facing devices for potential adverse effect on the system's security and/or integrity and remediate the vulnerability promptly or document why remediation action is unnecessary or unsuitable. The County shall have the right to inspect these vulnerability assessments and all documented remediation Plan of Actions and Milestones (POA&M) to confirm the effectiveness of these measures for the services being provided under this Agreement.

[USE FOR OIT CONTRACTS ONLY] 43. Data Handling in Event of Termination.

43.1 Authorized County personnel will have access to the software to retrieve and manually download County Content at any time during the Term.

43.2 Upon the termination of this Agreement, the Contractor shall continue to provide access, for a period of 90 days following termination, all electronic personal and business documentation and information of any kind or nature disclosed to the Contractor ("data") transferred or provided to the Contractor

including, but not limited to, copies maintained in digital, electronic, magnetic, optical or other mediums, of the County's data. During that time, the Contractor will make available to the County the data for a complete and secure (i.e. encrypted and appropriately authenticated) download file of the County data in a mutually agreed electronic format, including all schema and transformation definitions and/or delimited text files with documented, detailed schema definitions along with attachments in their native format. The Contractor, with assistance from the County, will deliver all of the County's content in its entirety with all associated metadata in a non-proprietary format agreed upon by the County within a mutually agreed upon period of time based upon contract termination. The Contractor will not charge any fees for their assistance in retrieving data or maintaining the equipment or bandwidth necessary for the County to complete the downloads

43.3 The Contractor shall destroy all the data and certify to the County that it has done so, unless legislation imposed upon the Contractor prevents it from returning or destroying all or part of the data transferred. In that case, the Contractor warrants that it will guarantee the confidentiality of the data transferred and will not actively process the data transferred anymore, including backups of data. The Contractor shall execute a data inspection and perform a data scrub of the electronic files containing the County data, so that upon completion of a data scrub of such data, all such data in all live electronic files owned or operated by the Contractor or its employees, agents, assigns and subcontractors is deleted. Additionally, the Contractor shall return or destroy all other County data that the Contractor still maintains in any other form and retain no copies of any such information when no longer needed for the purpose for which disclosure was made. The Contractor shall certify to the County in an affidavit prepared and executed under oath by a legally authorized representative of the Contractor that all County data disclosed to the Contractor, its employees, agents, assigns or subcontractors, has been returned to the County or destroyed by the Contractor, its employees, agents, assigns and subcontractors. The Contractor shall warrant that, upon request of the County, it will submit its data processing facilities for audit to verify compliance with this Section. The Contractor shall provide written proof that all of the County's Content has been successfully deleted and fully removed from the software.

43.4 The Contractor will not delete any Content belonging to the County as a result of a termination during the 90 days following termination. During this 90-day period authorized County personnel will have access to Content belonging to the County. The County will not incur any additional fees if the Contractor downloads the County's Content from the software during this 90-day period. Upon 30 days prior written notice, the County shall be granted extensions to the 90-day period in 90-day increments to retrieve County content and associated metadata without incurring any additional fees. The Contractor has no obligation to maintain or provide any County Content after the 90-day period unless notified of an extension request, approval of which shall not be unreasonably withheld.

[USE FOR OIT CONTRACTS ONLY] 44. 508 Compliance. As defined by law in Section 508 of the Rehabilitation Act of 1973, the County is required to ensure that users with disabilities have access to and use of system information and data that is comparable to that provided to system users who do not have disabilities. All private and public-facing websites and web applications must meet Section 508 compliance and WCAG2.0 accessibility standards. Vendors must provide a Voluntary Product Accessibility Template (VPAT) as

confirmation that the products provided meet these standards. A new VPAT must be provided for all product updates, releases or upgrades prior to implementing said updates, releases or upgrades.

[DELETE IF NOT APPLICABLE: 45. Cooperation between Contractors. The Contractor Agrees that it will cooperate with other contractors on adjoining, related, or overlapping work and shall adhere to the timeliness stated in the Agreement and any Contract Attachments hereunder.]

[DELETE IF NOT APPLICABLE: 46. Legal Updates. The Contractor shall provide any legislative updates, modifications, or changes, as required pursuant to federal or state law or mandates, or a law passed at a local level, at no cost, on an on-going basis, to the County. This includes updates and modifications to templates, forms and other reporting documents required by government entities receiving data generated by the County for submittals required by these government entities.]

[DELETE IF NOT APPLICABLE: 47. Advertising and Public Disclosure. Neither party shall issue any press release which mentions the other Party or the transactions contemplated by this Agreement without the prior consent of the other Party, which consent shall not be unreasonable withheld. Any oral or written materials related to services performed under this Agreement shall include only services that have been accepted by the County. Each party shall notify the other in advance of the date and time of any such presentation. Nothing in this provision shall preclude the transmittal of any information to officials of the County, including without limitation the County Executive, the Director of Information Technology, the County Council or the County Auditor.

[DELETE IF NOT APPLICABLE: 48. Marketing Support. Contractor may not use County's name or seal without County's written consent.

IN WITNESS WHEREOF, it is the intent of the parties that Contractor has signed this Agreement under seal and further, that the parties have executed this Agreement the day and year first written above.

WITNESS:

[INSERT LEGAL NAME OF CONTRACTOR]

Federal Identification No. _____

By: _____(SEAL)

[Insert Name]

[Insert Title]

WITNESS:

BALTIMORE COUNTY, MARYLAND, a body corporate and politic

By: _____ Date

Administrative Officer

Date

APPROVED FOR FORM AND LEGAL SUFFICIENCY*
(Subject to Execution by A Duly Authorized County Administrative Official and County Council, if Indicated)

OFFICE OF BUDGET AND FINANCE:

OFFICE OF THE COUNTY ATTORNEY

*Approval of Form and Legal Sufficiency Does Not Convey Approval or Disapproval of Substantive Nature of Transaction. Approval is Based Upon Typeset Document. All Modifications Require Re-Approval.

REVIEWED AND APPROVED:

[INSERT DEPT. AND DEPT. HEAD]

BALTIMORE COUNTY COUNCIL

By: _____

Chair

Date

ATTACHMENT A

[SERVICES AND/OR SCOPE OF WORK TO BE PERFORMED] [GOODS TO BE PROVIDED] [FOR CAPITAL IMPROVEMENT CONTRACTS: TIME FRAME OR COMPLETION SCHEDULE WITH INTERIM BENCHMARKS, AS APPLICABLE]

SAMPLE

THE ABOVE ARE IN ADDITION TO ANY OTHER SERVICES AS SET FORTH IN THE [REQUEST FOR PROPOSAL # / REQUEST FOR BID #] AND THE BID RESPONSE.

ATTACHMENT B

INSURANCE

SAMPLE

ATTACHMENT C
CONTRACT AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the [title] _____ and the duly authorized representative of [business] _____ (the "Business") and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

B. BID/PROPOSAL AFFIDAVIT AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgments contained in that certain Procurement Affidavit dated _____, and executed by [me] [_____] for the purpose of obtaining the contract to which this Affidavit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

By: _____

Name:

Title:

(Authorized Representative and Affiant)